

# **State Board of Embalmers and Funeral Directors**

May 19, 2016

Division of Professional Registration  
3605 Missouri Boulevard  
Jefferson City, Missouri 65109

## **OPEN MINUTES**

The meeting of the State Board of Embalmers and Funeral Directors was called to order by Collin Follis, chairman, at 8:35 a.m.

### **Roll Call**

#### **Board Members Present**

Collin Follis, Chairman  
Gary Fraker, Vice Chairman  
Jerald Dickey, Secretary  
Eric Pitman, Board Member  
Kenneth McGhee, Board Member

#### **Staff Present**

Sandy Sebastian, Executive Director  
Carla Volkart, Administrative Assistant  
Lori Hayes, Inspector  
Sharon Euler, Division Legal Counsel

The order of the items reflected in these minutes is not necessarily reflective of the order in which the items were reviewed and discussed by the board.

### **Approval of Agenda**

A motion was made by Jerald Dickey and seconded by Eric Pitman to approve the open agenda. Motion carried with Gary Fraker, Kenneth McGhee and Collin Follis voting in favor with no votes in opposition.

### **Move to Closed**

A motion was made by Gary Fraker and seconded by Eric Pitman to move to into closed session pursuant to numbers 1, 2, 7, 8 and 9 of the attached motions to close. Motion carried with Jerald Dickey and Kenneth McGhee voting in favor with no votes in opposition.

### **New Board Staff**

Collin Follis introduced Carla Volkart, who joined the board staff as an Administrative Assistant.

### **Executive Director Report**

Sandy updated the board on legislation, stating that none of the bills that she had previously discussed and was tracking had passed and those were senate bill 951, House bill 1842, and House bill 2523.

### **Legal Counsel Report**

Sharon Euler stated the National Prearranged Services' appeal briefs have not yet been filed and that it may be more than a year.

### **Approval of Open Minutes**

A motion was made by Jerald Dickey and seconded by Eric Pitman to approve the following minutes -  
November 6-7, 2013 Board Meeting Minutes  
December 16-17, 2013 Board Meeting Minutes  
September 18, 2015 Board Meeting Minutes  
January 25, 2016 Financial Examination Committee Minutes  
March 4, 2016 Board Meeting Minutes  
April 27, 2016 Board Meeting Minutes

Motion carried with Gary Fraker and Kenneth McGhee voting in favor with no votes in opposition.

### **Review of Proposed Regulations (attachment A)**

#### **What Constitutes Adequate Records for a Seller**

The board reviewed a proposed rule of what constitutes adequate records for a seller. Collin Follis appointed Gary Fraker, Kenneth McGhee and Eric Pitman to a committee.

#### **20 CSR 2120.3.525 Independent Financial Advisor is Agent of Trustee**

The board reviewed a proposed amendment of independent financial advisor is agent of trustee, which clarifies that an independent financial advisor is an agent of the trustee in a trust-funded preneed contract. A motion was made by Kenneth McGhee and seconded by Eric Pitman to remove "to the preneed trust's beneficiaries" from 20 CSR 2120.3.525 (6). Motion carried with Gary Fraker and Jerald Dickey voting in favor with no votes in opposition.

A motion was made by Kenneth McGhee and seconded by Jerald Dickey to approve the draft regulation with the correction from the previous motion. Motion carried with Gary Fraker and Eric Pitman voting in favor with no votes in opposition.

#### **20 CSR 2120-2.070 (13) Funeral Establishments**

The board reviewed a proposed amendment being discussed in the draft related to advertising of the funeral establishment. A motion was made by Kenneth McGhee and seconded by Gary Fraker to remove sections of 20 CSR 2120.2.070 (13) (A) which states "Advertisements that do not comply with this section shall be deemed misleading..." Motion carried with Jerald Dickey and Eric Pitman voting in favor with no votes in opposition.

A motion was made by Kenneth McGhee and seconded by Jerald Dickey to approve the amendment with the correction. Motion carried with Gary Fraker voting in favor and Eric Pitman voting in opposition.

#### **Cosmetologists Working in a Funeral Home**

There was discussion as to if a cosmetologist was allowed to practice in a funeral home and if their license must be displayed. Sandy stated she would check with the Board of Cosmetology and Barber Examiners to see what the requirement was.

#### **Adjourn**

A motion was made by Gary Fraker and seconded by Eric Pitman to adjourn at 1:36 p.m. Motion carried with Jerald Dickey and Kenneth McGhee voting in favor with no votes in opposition.

Executive Director 

Approved by the board on June 14-15, 2016

## MOTIONS TO GO INTO CLOSED SESSION

1. DISCIPLINE

I move that this meeting be closed and that all records and votes, to the extent permitted by law, pertaining to and/or resulting from this closed meeting be closed under Section 610.021, Subsection (1) RSMo and 324.001.9 RSMo for deliberation on discipline

2. LEGAL ACTIONS/LITIGATIONS/PRIVILEGED COMMUNICATIONS

I move that this meeting be closed and that all records and votes, to the extent permitted by law, pertaining to and/or resulting from this closed meeting be closed under Section 610.021, Subsection (1) RSMo for discussing general legal actions, causes of action or litigation and any confidential or privileged communications between this agency and its attorney

3. PROMOTING/HIRING/DISCIPLINING/FIRING EMPLOYEES

I move that this meeting be closed and that all records and votes, to the extent permitted by law, pertaining to and/or resulting from this closed meeting be closed under Section 610.021, Subsection (3) RSMo discussing hiring, firing, disciplining or promoting an employee of this agency

4. DIAGNOSIS/TREATMENT OF DISCIPLINED LICENSEES

I move that this meeting be closed and that all records and votes, to the extent permitted by law, pertaining to and/or resulting from this closed meeting be closed under Section 610.021, Subsection (5) and Section 324.001.8 RSMo. for proceedings required pursuant to a disciplinary order concerning medical, psychiatric, psychological, or alcoholism or drug dependency diagnosis or treatment of specific licensees

5. EXAMINATION MATERIALS

I move that this meeting be closed and that all records and votes, to the extent permitted by law, pertaining to and/or resulting from this closed meeting be closed under Section 610.021, Subsection (7) RSMo for reviewing testing and examination materials

6. EMPLOYEE PERFORMANCE RATINGS

I move that this meeting be closed and that all records and votes, to the extent permitted by law, pertaining to and/or resulting from this closed meeting be closed under Section 610.021, Subsection (13) RSMo for making performance ratings pertaining to individual employees

7. APPLICATIONS

I move that this meeting be closed and that all records and votes, to the extent permitted by law, pertaining to and/or resulting from this closed meeting be closed under Section 610.021, Subsection (14) and Section 324.001.8 RSMo for discussing educational transcripts and/or test scores and/or complaints and/or audits and/or investigative reports and/or other information pertaining to the licensee or applicant for licensure

8. CLOSED MINUTES

I move that this meeting be closed and that all records and votes, to the extent permitted by law, pertaining to and/or resulting from this closed meeting be closed under Section 610.021, Subsection (14) and 324.017 RSMo for the purpose of reviewing and approving the closed minutes of previous meetings

9. COMPLAINTS/ INVESTIGATIVE REPORTS/AUDITS

I move that this meeting be closed and that all records and votes, to the extent permitted by law, pertaining to and/or resulting from this closed meeting be closed under Section 610.021 subsection (14) and section 620.010.14 subsection (7) RSMo for the purpose of discussing investigative reports and/or complaints and/or audits and/or other information pertaining to a licensee or applicant

Revised 09-11



**Title 20-DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND  
PROFESSIONAL REGISTRATION**

**Division 2120-State Board of Embalmers and Funeral Directors**

**Chapter 3 – Preneed**

**PROPOSED RULE**

**What Constitutes Adequate Records for a Seller**

1. A seller shall maintain the basic financial and contract records with regard to all ~~trust and joint accounts~~ **preneed contracts** to include the standard books of account and the supporting records that are necessary to safeguard and account for the receipt and disbursement of preneed funds.
2. Adequate records for a seller to maintain shall include, at a minimum:
  - (1) receipt and disbursement journals containing a record of deposits to and withdrawals from both preneed trusts and preneed joint accounts, specifically identifying the date, source, and description of each item deposited as well as the date, payee, and purpose of each disbursement;
  - (2) ledger records for all preneed trust and preneed joint accounts showing, for each separate preneed contract, the source of all funds deposited, the amount of such funds, the descriptions and amounts of withdrawals, and the names of all persons or entities to whom such funds were disbursed;
  - (3) preneed contracts, trust agreements, trust administration agreements, provider agreements, preneed agent agreements, and all correspondence related to the preneed contract;
  - (4) accountings showing the disbursement of funds;
  - (5) records showing disbursements;
  - (6) the physical or electronic equivalents of all checkbook registers, bank statements, records of deposit, pre-numbered canceled checks, and substitute checks provided by a financial institution;
  - (7) records of all electronic transfers from preneed trust or preneed joint accounts, including the name of the person authorizing transfer, the date of transfer, the name of the recipient and confirmation from the financial institution of the trust account number from which money was withdrawn and the date and the time the transfer was completed;
  - (8) reconciliations of the preneed accounts;
  - (9) those portions of preneed files that are reasonably related to account transactions;
  - (10) records of credit card transactions related to any preneed transaction to the extent permitted by law and the payment card industry data security standard;
  - (11) all information obtained by the seller related to any insurance policy used to fund any preneed contract that may include a copy of the insurance policy, any assignment or beneficiary

designations, any statement showing any status of any insurance policy used to fund a preneed contract.

(12) any communications between the seller and the purchaser and/or beneficiary of the preneed contract related to the preneed contract;

(13) any written certificates of performance received by the seller.

3. No seller shall commingle personal funds or other funds in a preneed trust or a preneed joint account.
4. All records required to be maintained by a seller may be maintained in paper or electronic or a combination of paper and electronic formats, but shall be maintained in a manner such that the required information may be retrieved and provided to the board in a timely manner, upon request in accordance with the statutes and regulations governing the board.



**Title 20-DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND  
PROFESSIONAL REGISTRATION  
Division 2120-State Board of Embalmers and Funeral Directors  
Chapter 3 – Preneed**

**PROPOSED AMENDMENT**

**20 CSR 2120-3.525 [Independent Financial Advisor is Agent of Trustee] Authorized External Investment Advisor**

*PURPOSE: [This rule clarifies that an independent financial advisor is an agent of the trustee in a trust-funded preneed contract.] To set forth the qualifications and duties of an authorized external investment advisor for a preneed trust.*

- (1) An [independent financial advisor] **authorized external investment advisor**, as provided in section 436.440.6 **and 436.445**, RSMo, is an agent, as provided in section 436.440, RSMo, of the trustee.
- (2) **A preneed trust may utilize the services of an authorized external investment advisor as provided in Sections 436.435, .440 and .445, RSMo.**
- (3) **Any authorized external investment advisor utilized by a preneed trustee must have a current and active federal or Missouri registration as an investment advisor at all times when he or she serves as an investment advisor for a preneed trust.**
- (4) **Any authorized external investment advisor shall exercise his or her duties in compliance with the provisions of applicable state and federal laws including compliance with his or her fiduciary duties including the duties of loyalty and of care.**
- (5) **Except as provided in Chapter 436, RSMo, only a preneed trustee may retain the services of an authorized external investment advisor to assist the preneed trustee with the investment of preneed trust assets.**
- (6) **If a preneed trustee utilizes the services of an authorized external investment advisor, that relationship shall be memorialized in a written agreement that discloses the scope of duties and powers delegated, the compensation to be paid to the authorized external investment advisor, any relationship or contracts between the authorized external investment advisor and the seller, any relationship or contract between the authorized external investment and advisor and any provider of any preneed contract for which funds are held in the seller's preneed trust, and any other provisions that the trustee deems necessary to meet its fiduciary duty to the preneed trust's beneficiaries.**
- (7) If the preneed trustee utilizes the services of an authorized external investment advisor, the preneed trustee shall provide the seller with notice of the name and address of the authorized external investment advisor. The seller shall be so advised within 30 days of the date the written agreement between the preneed trustee and the authorized external investment advisor is fully executed.**
- (8) **Any independent financial advisor, in place before August 28, 2009 in compliance with the provisions of Section 436.440.6, RSMo, must be either a federally registered or Missouri registered independent qualified investment advisor at all times when acting as an investment advisor for a preneed trust and must meet all requirements required of an authorized external investment advisor..**

*AUTHORITY: sections 333.340, 436.440.6, **436.445**, and 436.520, RSMo Supp. 2009. \* Emergency rule filed Dec. 4, 2009, effective Dec. 14, 2009, expired June 11, 2010. Original rule filed Dec. 4, 2009, effective June 30, 2010.*

*\*Original authority: 333.340, RSMo 2009; 436.440, RSMo 2009; and 436.520, RSMo 2009.*



**Title 20-DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND  
PROFESSIONAL REGISTRATION  
Division 2120-State Board of Embalmers and Funeral Directors  
Chapter 2- General Rules**

**PROPOSED AMENDMENT**

**20 CSR 2120-2.070 Funeral Establishments**

*Purpose: The purpose of this amendment is to update the existing regulation's terminology, provide additional clarification regarding the chemical disposition process and provide for board discretion to allow a funeral establishment to continue operation at an approved temporary location.*

*PURPOSE: This rule clarifies establishment license classifications, establishment names, and the documents to be maintained by licensed funeral homes.*

(1) Application for a Missouri licensed funeral establishment license shall be made on the forms provided by the board and shall be accompanied by the appropriate fee. Applications are available from the board's office or the board's website [at <http://pr.mo.gov/embalmers.asp>]. Each application shall indicate which license classification is being sought.

(2) There shall be the following license classifications:

(A) Function A establishments shall have authority to embalm dead human bodies and to transport dead human bodies to and from the funeral establishment. An establishment licensed only as a Function A establishment is prohibited from the care and preparation of dead human bodies other than by embalming, and shall also be prohibited from making funeral arrangements or embalming arrangements with any unlicensed person, cremating, conducting visitations and funeral ceremonies, and furnishing any funeral service in connection with the disposition of dead human bodies, or selling of funeral merchandise. **Each Missouri licensed funeral establishment used solely or partially for embalming shall contain a preparation room that shall be devoted to activities incident or related to the preparation or the embalming, or both, of dead human remains and shall be equipped and maintained as described in 20 CSR 2120-2.090. Each Function A funeral establishment licensed for embalming shall maintain on the premises [in the preparation room] a register log.**

(B) Function B establishments shall have authority to cremate **through the use of any mechanical or chemical means** dead human bodies and to transport dead human bodies to and from the funeral establishment. This establishment shall have a functioning cremation chamber **and/or functioning facilities for alkaline hydrolysis chemical process for final disposition of a dead human body**, except as otherwise provided by Chapter 333, RSMo, and the rules of the board. An establishment licensed only as a Function B establishment is prohibited from the care and preparation of dead human bodies other than by cremating, and shall also be prohibited from embalming, making funeral arrangements or cremation arrangements with any unlicensed person, conducting visitations and funeral ceremonies, and furnishing any funeral service in connection with the disposition of dead human bodies or selling funeral merchandise. In no event shall any licensee or licensed establishment cremate human remains in the same retort used for cremating non-human remains. **Each Missouri licensed funeral establishment which is used solely or partially for cremations shall be equipped and maintained as described in 20 CSR 2120-2.071. This function shall maintain on the premises in the cremation area a cremation log.**

(C) Function C establishments shall have authority for the care and preparation of dead human bodies, other than by embalming or cremating, authority to transport dead human bodies to and from the funeral establishment, make funeral arrangements, and furnish any funeral services in connection with the disposition of dead human bodies or the sale of funeral merchandise. **This function shall contain a separate area for the**



care and custody of dead human remains that is secured with a functioning lock and a separate area for confidential conferences to arrange funeral services. The Function C establishment shall have on-site equipment necessary for arranging funeral services including tables or desks and chairs for funeral service arrangement conferences and file cabinets for the confidential storage of funeral records. This function shall contain an available restroom and drinking water in the building and an area where funeral ceremonies or visitations may be conducted. The establishment shall be equipped with seating for visitations or funeral ceremonies, casket bier, register book stand, and officiate stand. This function shall maintain on the Missouri premises the following documents:

- (A) General price list;
- (B) Preneed contracts which have been cancelled or fulfilled;
- (C) [Purchase agreements] Written Statements of Goods and Services;
- (D) Authorizations to embalm or cremate.
- (E) Register Log;
- [(F) Preneed Contracts]

(D) Function D establishments shall have authority to conduct visitations and funeral ceremonies only. A Function D license is dependent upon and shall be operated under the supervision and ownership of a Function C establishment. This function shall contain an available restroom and drinking water in the building, and an area where funeral ceremonies or visitations may be conducted. The establishment shall be equipped with seating for visitations or funeral ceremonies, casket bier, register book stand, and officiate stand. Each Function D funeral establishment shall maintain on the premises a register log.

(E) Function E establishment shall have authority to make funeral arrangements and furnish any funeral services in connection with the disposition of dead human bodies or the sale of funeral merchandise. This function shall have a separate area for confidential conferences to arrange funeral services. The Function E establishment shall have on site tables or desks and chairs for funeral service arrangement conferences and file cabinets for the confidential storage of funeral records. This function shall contain an available restroom and drinking water in the building. The establishment is to be used only for arranging funerals and visitations to be conducted at another facility, no services shall be held at this establishment. This function shall maintain on the premises the following documents:

- A) General price list;
- (B) Preneed contracts which have been cancelled or fulfilled;
- (C) Written Statements of Goods and Services;
- (D) Authorizations to embalm or cremate;
- (E) Register Log.

(3) If a Missouri licensed funeral establishment wishes to [change or] add to its classification, it shall file a new application for a Missouri licensed funeral establishment indicating its new classification. If a Missouri licensed funeral establishment desires to eliminate one (1) of its functions, [,other than a Function C,] it shall notify the board in writing of its intention to surrender the function, but is not required to file a new application for a new Missouri licensed funeral establishment.

[(4) A Missouri licensed funeral establishment shall not be used for any other business purpose other than as a Missouri licensed funeral establishment. It shall be permissible for a Missouri licensed funeral establishment to be in the same building as another business so long as the Missouri licensed funeral establishment has a separate entrance and a separate street address.] (4) A Missouri licensed funeral establishment shall not be used for any business purpose other than as a Missouri licensed funeral establishment, except as otherwise permitted by statute or rule.

A. It shall be permissible for a Missouri licensed funeral establishment to be in the same building as another business so long as the Missouri licensed funeral establishment has a separate entrance and separate address.



**B. It shall be permissible to engage in the business of being a preneed seller, preneed provider, preneed agent and/or the sale of life insurance at a Missouri licensed funeral establishment so long as all persons involved in such business hold the necessary licenses to engage in such business lawfully.**

(5) A Missouri licensed funeral establishment shall be used only for the function for which it is licensed.

(6) Each application for a funeral establishment shall be made in the name of the person or business entity authorized to conduct business in Missouri. No license shall be issued to an establishment that has no legal recognition. A Missouri licensed funeral establishment shall maintain a current and active authorization to conduct business in Missouri with the Missouri Secretary of State.

(7) A funeral establishment application shall indicate the name and license number of the Missouri licensed funeral director-in-charge, as defined by 20 CSR 2120-1.040. When the Missouri licensed funeral director-in-charge changes **[for a period of more than thirty (30) days]**, the new Missouri licensed funeral director-in-charge and the former Missouri licensed funeral director-in-charge, jointly or individually, shall notify the board of the change within **[thirty (30)] fifteen (15)** days of the date when the change first occurs. Failure to notify the board shall be considered a violation of this rule on the part of each Missouri funeral director licensee and on the part of the Missouri licensed funeral establishment. A change in the Missouri licensed funeral director-in-charge does not require a new Missouri licensed funeral establishment license.

(8) Within thirty (30) days after an application for a Missouri licensed funeral establishment has been received in the board's office, the board shall cause the establishment to be inspected. The board shall act on the application and, within thirty (30) days after the application was received in the board's office, the applicant will be advised whether the license is granted or denied. If an applicant determines the establishment will not meet the qualifications for inspection or licensure within the thirty (30)-day application period, up to two (2) thirty (30)-day extensions of the application may be requested by the applicant in writing to the board before the application expires. Each request for an extension shall be received by the board prior to the expiration of the application or extension period.

(9) The establishment license issued by the board is effective for a fixed place or establishment and for a specific name of a person or entity authorized to conduct business in Missouri and may include one (1) "doing business as" name. The license issued by the board shall be displayed in a conspicuous location accessible to the general public at that location. Whenever the ownership, location, or name of the Missouri licensed establishment is changed, a new license shall be obtained. If the Missouri licensed funeral establishment maintains a chapel, preparation room, or other facility in a building or portion physically separated from and located at a place designated by an address differing from the office, chapel, or other facilities of the applicant, the chapel, preparation room, or other funeral facility otherwise located shall be deemed to be a separate funeral establishment. Nothing contained in this rule shall be construed or interpreted to require a separate registration for a building if it is joined or connected by a private passage, walk or driveway existing between the registered establishment and the other building.

(A) If a change of ownership is caused by the elimination of one (1) or more owners, for whatever reason (death, sale of interest, divorce, etc.) without the addition of any new owner(s), it is not necessary to obtain a new establishment license. However, a new application for an establishment license form shall be filed as an amended application **[within thirty (30) days] prior to [after]** the change of ownership. This form shall be filled out completely with correct, current information.

(B) A corporation is considered by law to be a separate person. If a corporation owns a Missouri licensed funeral establishment, it is not necessary to obtain a new establishment license or to file an amended application for an establishment license if the owners of the stock change.

**(C)** However, as a separate person, if a corporation begins ownership of a Missouri licensed funeral establishment or ceases ownership of a Missouri licensed funeral establishment, a new establishment license shall be obtained regardless of the relationship of the previous or subsequent owner to the corporation.



(10) The professional business and practice of funeral directing shall be conducted only from a fixed place or establishment that has been licensed by the board except as permitted by section 333.071, RSMo. The Missouri licensed funeral establishment physical facility shall be under the general management and supervision of the Missouri licensed funeral director-in-charge. Every Missouri licensed funeral establishment shall provide and allow access to any member or **[duly authorized]** agent of the board for the purpose of inspection , **investigation, examination or audit as authorized in Chapters 333 and 436 [as provided by sections 333.061 and 333.101]**, RSMo. If any representative of the Missouri licensed funeral establishment fails or refuses to provide or allow access, it shall be considered a violation of this rule by the Missouri licensed funeral establishment and by the Missouri licensed funeral director-in-charge of the Missouri licensed funeral establishment. Additionally, if the Missouri licensed funeral establishment representative who fails or refuses to provide or allow access holds any license or registration issued by this board, that person shall be in violation of this rule.

(11) No one licensed by this board may be employed in any capacity by an unlicensed funeral establishment. Violation of this section will be deemed misconduct in the practice of embalming or funeral directing.

(12) Only one (1) **Missouri funeral establishment** license will be issued by this board for any physical facility that is considered to be a Missouri licensed funeral establishment as defined by statute and rule.

**(A) If a Missouri funeral establishment licensed by this board is destroyed by fire or some other disaster or act of God, the board, in its discretion, for a period of not more than six (6) months, may allow the Missouri licensed funeral establishment to continue its operation from another Missouri licensed funeral establishment or from a facility that has not been licensed as a funeral establishment if the facility meets the minimum requirements for the functions outlined in section (2) of this rule. The temporary location is not intended for long-term use, but rather as a means to maintain the business of the Missouri licensed establishment while it actively pursues the steps necessary to re-open its facilities at the licensed location.**

**(B) If the Missouri licensed funeral establishment has not been able to re-open its facilities at the licensed location within the initial six (6) months, then the Missouri licensed funeral establishment may make a written request to the board for an additional six (6) months to continue to operate from its temporary location which the board shall grant, at its discretion.**

**(C) If the Missouri licensed funeral establishment is unable to re-open its facilities at its licensed location after the expiration of the second six (6) month extension, then the Missouri licensed funeral establishment may make a written request and make an appearance before the board to present its plan to re-open at the licensed location and show good cause for any additional extension.**

**(D) Before a Missouri license funeral establishment operates at any location other than its licensed location, that establishment must make a written request to the board that sets forth the reason a temporary location is required, the address of the requested temporary location, and show a legal right to occupy the premises at the temporary location that may include a deed, a rental agreement, a letter from the owner of the temporary location or other similar written documentation. Upon approval of the temporary location, the board shall issue its written notice of approval. The temporary location may not be used by the licensee until it receives that written notice of approval from the board.**

**(E) When the Missouri licensed funeral establishment is ready to re-open the facilities at the licensed location, it must notify the board, in writing, that it is ready to re-open and the board will conduct an inspection to ensure the facilities at the licensed location comply with all requirements to be operated as a licensed establishment and upon approval will provide written notice to the establishment that it is approved to resume operations at the licensed location. No new application or application fee shall be required.**

**(F) In order to operate at a temporary location, the Missouri licensed funeral establishment must take all steps necessary to maintain its establishment license in a current and active status.**

(13) A Missouri licensed funeral establishment may use only its registered name in any advertisement or holding out to the public.



(A) All signs, stationery and any advertising in newspapers, publications or otherwise, shall include the name(s) of the Missouri licensed funeral establishment registered with the board. Advertisements that do not comply with this section shall be deemed misleading for the purposes of section 333.[121]330, RSMo.

(B) It shall not be deemed to be misleading if a listing appears in a telephone directory or national directory if the name of the Missouri licensed funeral establishment changes after the listing has been placed, but before a new directory is published.

(14) The interior and exterior of the Missouri licensed funeral establishment physical plant shall be **maintained in a manner that does not present a potential or actual hazard to the health, safety, or welfare of the public and** kept free and clean of litter, dirt, debris, and clutter **[or other objects or conditions which present a potential or actual hazard to the health, safety, or welfare of the public].**

**[(15) The interior and exterior of the Missouri licensed funeral establishment physical plant shall be maintained in a manner that does not present a potential or actual hazard to the health, safety, or welfare of the public.]**

**(16) Each Missouri licensed funeral establishment used solely or partially for embalming shall contain a preparation room that shall be devoted to activities incident or related to the preparation or the embalming, or both, of dead human remains and shall be equipped and maintained as described in 20 CSR 2120-2. 090.]**

**[(17)] (15)** No person shall be permitted in a preparation room during the course of embalming a dead human body except the employees of the Missouri licensed funeral establishment in that the human body is being embalmed, members of the family of the deceased, and persons authorized by the members of the family of the deceased, or any person otherwise authorized by law.

**[(18) Each Missouri licensed funeral establishment which is used solely or partially for cremations shall be equipped and maintained as described in 20 CSR 2120-2.071.]**

**(19) Each Function C establishment shall contain a separate area for the care and custody of dead human remains and a separate area for confidential conferences to arrange funeral services. The Function C establishment shall have on-site equipment necessary for arranging funeral services including tables or desks and chairs for funeral service arrangement conferences and file cabinets for the confidential storage of funeral records.**

**(20) Each Function C or Function D establishment shall contain a restroom, available drinking water, and an area where funeral ceremonies or visitations may be conducted. The establishment shall be equipped with seating for visitations or funeral ceremonies, casket bier, register book stand, officiate stand, flower display stands, and music- producing equipment.**

**(21)] (16)** According to section 333.[121.2(17)]330, RSMo, the State Board of Embalmers and Funeral Directors may impose disciplinary action for failure to obtain authorization to embalm from the person entitled to custody or control of the body, if the body is embalmed. If the body is not embalmed, a Missouri licensed funeral establishment shall not hold the unembalmed body for any longer than twenty-four (24) hours unless the unembalmed body is refrigerated in a cooling unit at a temperature of forty degrees Fahrenheit (40° F) or cooler or encased in an airtight metal or metal-lined burial case, casket or box that is closed and hermetically sealed. If the deceased gave written authorization to embalm and did not revoke the authorization, the authorization shall satisfy this requirement. If the deceased did not give written authorization to embalm, the next of kin of the deceased may give authorization to embalm. Authorization to embalm may be given by the next of kin prior to the death of the person whose body is to be embalmed. Authorization to embalm given prior to death may be in any written document, including a preneed contract.

(A) The next of kin, for purposes of this rule, shall be as defined in section 194.119.2, RSMo.

(B) Any person or friend who assumes responsibility for the disposition of the deceased's remains if no next of kin assumes such responsibility may authorize to embalm the deceased;



(C) The county coroner or medical examiner pursuant to the provisions of Chapter 58, RSMo may authorize to embalm the deceased;

(D) If the body is required to be buried at public expense, the body shall be disposed of according to the terms of section 194.150, RSMo;

(E) If the Missouri licensed funeral establishment receives no authorization to embalm from any of the persons identified in subsections ([21]16)(A), (B), or (C) of this rule, the Missouri licensed funeral establishment may proceed with embalming if it has attempted to locate a person from whom authorization to embalm may be obtained for at least six (6) hours and it has a written statement from city, county, or state law enforcement officials that they have assisted the Missouri licensed funeral establishment in attempting to locate such a person. However, the Missouri licensed embalmer may proceed to embalm sooner if the condition of the body is such that waiting for six (6) hours would substantially impair the ability to effectively embalm the body or if the deceased died as a result of a communicable disease, was subject to isolation at the time of death; and

(F) If a Missouri licensed embalmer proceeds to embalm a body under the provisions of subsection (21)(E), the Missouri licensed funeral establishment which employs the Missouri licensed embalmer shall not require payment for the embalming unless the funeral arrangements that are subsequently made authorized the embalming.

**[(22)] (17)** Each Missouri licensed funeral establishment shall maintain documentation of the following information regarding authorization to embalm a body which is embalmed by or on behalf of the Missouri licensed funeral establishment—

(A) When authorization to embalm is given in writing:

**(1). The name of the deceased**

**[1] (2).** The name and signature of the person who is authorizing embalming;

**[2] (3).** The relationship of that person to the deceased;

**[3] (4).** The time and date authorization to embalm was given; and

**[4] (5).** The name and title of the person receiving authorization to embalm on behalf of the Missouri licensed funeral establishment; and

(B) Authorization to embalm shall be given in writing if the person authorizing embalming is present in the Missouri licensed funeral establishment or in the physical presence of the person receiving authorization to embalm on behalf of the Missouri licensed funeral establishment. If verbal authorization to embalm is given, the Missouri licensed funeral establishment shall document:

1. The name of the person who is actually authorizing embalming, if different from the person who is verbally communicating authorization to embalm to the Missouri licensed funeral establishment;

2. The relationship of that person to the deceased;

3. The name of the person who is verbally communicating authorization to embalm and that person's relationship to the person who is actually authorizing embalming;

4. The time and date authorization to embalm was given; and

5. The name and title of the person receiving authorization to embalm on behalf of the Missouri licensed funeral establishment.

**[(23) Each Function C funeral establishment shall maintain on the Missouri premises the following documents:**

**(A) General price list;**

**(B) Preneed contracts which have been cancelled or fulfilled;**

**(C) Purchase agreements; and**

**(D) Authorizations to embalm or cremate.]**

(24) Each Function A funeral establishment licensed for embalming shall maintain on the premises in the preparation room a register log.



[25) Each Function B funeral establishment licensed for cremation shall maintain on the premises a completely functioning cremation chamber, as defined by 20 CSR 2120-2.071(1)(D), and maintain on the premises in the cremation area a cremation log. A Function B establishment shall not be in violation of this rule if the cremation chamber is completely restored to functioning capacity within one hundred twenty (120) days from the date the cremation chamber ceases to be in compliance with this section. However, if there are extenuating circumstances, and the cremation chamber could not be repaired, documentation of such shall be provided to the board for review and approval. Cremation chambers shall be maintained in proper working order and in compliance with all applicable Missouri Department of Health and Senior Services statutes, rules and regulations; Missouri Department of Natural Resources, statutes, rules and regulations; and all other applicable federal, city, county, and municipal statutes, rules and regulations.

(A) If a Function B establishment has only one (1) cremation chamber, and that chamber is not functioning, notification from the establishment shall be made to the board within ten (10) business days after the cremation chamber stops functioning.

(B) A Function B establishment that has a nonfunctioning cremation chamber may arrange for cremation at another licensed establishment, if the use of an alternate establishment for purposes of cremation is disclosed to the third party making the arrangements on the cremation authorization form.

1. Cremation areas shall contain only the articles, instruments, and items that are necessary for the preparation and cremation of dead human bodies. For purposes of this section, the cremation area shall include the entire room where the retort is located and any rooms used for viewing or visitation of a dead human body awaiting cremation or that is being cremated or being removed from the cremation chamber. This paragraph (25)(B)1. shall not apply to establishments containing retorts or cremation areas for the cremation of non-human remains prior to April 1, 2008, provided that such establishment shall be prohibited from cremating human remains at the same time or in the same retort as non-human remains.

2. Any establishment containing an area for the cremation of non-human remains prior to April 1, 2008, shall be required to comply with this rule if a change of ownership is caused by the addition or replacement of one (1) or more owners or a new corporation begins ownership of the establishment. This paragraph (25)(B)2. shall not apply if only the owners of the stock of a corporation changes.

3. In no event shall any licensee or licensed establishment cremate human remains in the same retort used for cremating non-human remains].

[26)] (19) All documents required by this rule to be maintained, shall be maintained on the premises of the Missouri licensed funeral establishment for two (2) years from the date the record was created. All documents required to be maintained by this rule may be maintained electronically, but all documents shall be stored in such a manner to allow access by the board and so the board, or its assignee, may easily and timely obtain hard copies or electronic copies in a format easily readable by the board, or its assignee.

[27)] (20) Each funeral establishment shall maintain a register log [as defined by 20 CSR2120-1.040(21)].[The log shall be kept in the preparation or embalming room of the Missouri licensed funeral establishment at all times and in full view for a board inspector. If the funeral establishment does not contain a preparation or embalming room,] [the log shall be kept] on the premises of the licensed funeral establishment and shall be easily accessible and in full view for a board inspector. A register log shall [contain the information required by 20 CSR 2120-1.040(21)]. , include the following:

(A) The name of the deceased;

(B) The date and time the dead human body arrived at the funeral establishment;

(C) The date and time the embalming took place, if applicable;

(D) The name and signature of the Missouri licensed embalmer, if applicable;

(E) The name and signature of the Missouri registered apprentice embalmer, if any;

(F) The Missouri licensed embalmer's license number, if applicable;



- (G) The Missouri apprentice embalmer registration number, if any; and  
(H) The name of the licensed funeral establishment, or other that was in charge of making the arrangements if from a different location.

[28] (21) No dead human body shall be buried, disinterred, interred, or cremated within this state or removed from this state, unless the burial, disinterment, interment, cremation, removal, or other authorized disposition, is performed under the direction of a Missouri licensed funeral establishment or Missouri licensed funeral director, unless otherwise authorized by law. If the disinterment does not require legal notification to the county coroner or medical examiner, a funeral director's presence may not be required. Nothing in this rule shall be interpreted to require the use of a Missouri licensed funeral establishment or director if the person(s) having the right to control the incidents of burial request or determine otherwise, provided that this provision does not exempt any person from licensure as required by Chapter 333, RSMo. **Any licensed funeral establishment or funeral director that makes arrangements for an unlicensed person to transport dead human bodies within the state of Missouri, or out of this state, is responsible for the conduct of the unlicensed person.**

[29] (22) A licensee shall be prohibited from knowingly using, placing, or including any false, misleading, deceptive or materially incorrect information, or assisting or enabling any person to provide such information, on a death certificate filed in the state of Missouri.

[30] (23) Whenever a dead human body is donated to a medical or educational institution for medical and/or scientific study and arrangements for return of the body to the legal next of kin have not been made, then delivery of the body to the medical or educational institution shall constitute final disposition. If, however, arrangements for return of the body to the legal next of kin have been made, then final disposition shall be the burial, interment, cremation, or removal of the body out of this state, after the medical or educational institution has returned the body.

[31] (24) The rules in this division are declared severable. If any rule, or section of a rule, is held invalid by a court of competent jurisdiction or by the Administrative Hearing Commission, the remaining provisions shall remain in full force and effect unless otherwise determined by a court of competent jurisdiction or by the Administrative Hearing Commission.

*AUTHORITY: sections 333.061 and 333.121, RSMo Supp. 2008 and sections 333.091, 333.111, and 333.145, RSMo 2000. \* This rule originally filed as 4 CSR 120-2.070. Original rule filed Oct. 17, 1975, effective Oct. 28, 1975. Amended: Filed Aug. 16, 1976, effective Dec. 11, 1976. Emergency rule filed Nov. 9, 1978, effective Nov. 20, 1978, expired Feb. 11, 1979. Rescinded and readopted: Filed Nov. 8, 1978, effective Feb. 11, 1979. Rescinded and readopted: Filed Jan. 13, 1982, effective April 11, 1982. Amended: Filed Aug. 6, 1982, effective Nov. 11, 1982. Amended: Filed Sept. 12, 1985, effective Dec. 26, 1985. Rescinded and readopted: Filed May 28, 1987, effective Sept. 11, 1987. Amended: Filed June 24, 1988, effective Sept. 29, 1988. Amended: Filed Sept. 6, 1988, effective Dec. 11, 1988. Amended: Filed Sept. 6, 1989, effective Dec. 28, 1989. Amended: Filed Dec. 4, 1989, effective March 11, 1990. Amended: Filed Sept. 5, 1990, effective March 14, 1991. Amended: Filed March 4, 1991, effective Sept. 30, 1991. Amended: Filed Aug. 15, 1991, effective Jan. 13, 1992. Amended: Filed Dec. 14, 1992, effective June 7, 1993. Amended: Filed Nov. 29, 1994, effective July 30, 1995. Amended: Filed Sept. 3, 1996, effective April 30, 1997. Amended: Filed Nov. 1, 2001, effective April 30, 2002. Rescinded and readopted: Filed Dec. 31, 2003, effective July 30, 2004. Moved to 20 CSR 2120-2.070, effective Aug. 28, 2006. Amended: Filed Nov. 15, 2007, effective May 30, 2008. Amended: Filed April 8, 2009, effective Oct. 30, 2009.*

*\*Original authority: 333.061, RSMo 1965, amended 1981, 2001; 333.091, RSMo 1965, amended 1981; 333.111, RSMo 1965, amended 1981, 1993, 1995; 333.121, RSMo 1965, amended 1981, 2007; and 333.145, RSMo 1981.*